

## § 12.01–1

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AUTHORITY: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

SOURCE: CGFR 65–50, 30 FR 16640, Dec. 30, 1965, unless otherwise noted.

### Subpart 12.01—General

#### § 12.01–1 Purposes of regulations.

(a) The purposes of the regulations in this part are to provide—

(1) A comprehensive and adequate means of determining the identity or the qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States; and

(2) A means of determining that an applicant is competent to serve as a “rating forming part of a navigational watch” or a “rating forming part of an engine-room watch”, or is otherwise “designated to perform duties in a periodically unmanned engine-room”, on a seagoing ship, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW), and to receive the certificate or endorsement required by STCW (incorporated by reference in § 12.01–3).

(b) The regulations in subpart 12.03 of this part prescribe the requirements applicable to all training and assessment associated with meeting the standards of competence established by STCW.

[CGD 95–062, 62 FR 34534, June 26, 1997, as amended by USCG–1999–5610, 67 FR 66068, Oct. 30, 2002]

#### § 12.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal

Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and must ensure that the material is available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, room 1210, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

*International Maritime Organization (IMO)*, 4 Albert Embankment, London, SE1 7SR, England. The STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and 1997 (the STCW Convention, or the STCW)—and Seafarers' Training, Certification and Watchkeeping Code (the STCW Code), approved for incorporation by reference in sections 12.01-1; 12.01-6; 12.02-7; 12.02-11; 12.03-1; 12.05-3; 12.05-7; 12.05-11; 12.10-3; 12.10-5; 12.10-7; 12.10-9; 12.15-3; 12.15-7; 12.25-45; 12.30-5; and 12.35-5 of this part.

[USCG-1999-5610, 67 FR 66068, Oct. 30, 2002]

#### § 12.01-6 Definitions of terms used in this part.

*Approved* means approved by the Coast Guard in accordance with 46 CFR 10.302.

*Coast Guard-accepted* means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

*Conviction* means the applicant for a merchant mariner's document has been found guilty by judgment or plea by a

court of record of the United States, the District of Columbia or any State or territory of the United States of a criminal felony or misdemeanor or of an offense described in section 205 of the National Driver Register Act of 1982 (49 U.S.C. 30304). If an applicant pleads guilty or no contest, is granted deferred adjudication, or is required by the court to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forego appeal of a trial court's conviction, then the applicant will be considered to have received a conviction. A later expungement of the conviction will not negate a conviction unless it is proved to the OCMI that the expungement is based upon a showing that the court's earlier conviction was in error.

*Designated examiner* means a person who has been trained or instructed in techniques of training or assessment and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This person may be designated by the Coast Guard, or by a Coast Guard-approved or accepted program of training or assessment. A faculty member employed at a State maritime academy or the U.S. Merchant Marine Academy operated in accordance with regulations in 46 CFR part 310 and instructing in a navigation or engineering course is qualified to serve as a designated examiner in his or her area(s) of specialization without individual evaluation by the Coast Guard.

*Evaluation* means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

*Fails a chemical test for dangerous drugs* means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as "positive" for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.